

**TIPPECANOE COUNTY, INDIANA
ADDITIONAL TERMS AND CONDITIONS**

The attached and forgoing agreement (“Agreement”) between **The Board of Commissioners of Tippecanoe County** (County) and **Wet Environmental Engineering, LLC** (Contractor) is amended to incorporate by reference the following terms and conditions. Any provisions in the attached agreement which may be inconsistent with the following provisions shall be ineffective to the extent of any such inconsistency.

Incompatible Form Contract Provisions - By mutual agreement of the parties, the following terms and conditions are deleted from the Agreement:

- A. Any provision requiring the County to provide insurance to Contractor or on Contractor’s behalf.
- B. Any provision requiring the County to provide indemnity.
- C. Any provision providing that the Contract be construed in accordance with laws other than those of the State of Indiana.
- D. Any provision providing that suit be brought in any state other than Indiana or a venue other than Tippecanoe County.
- E. Any provision providing for resolution of contract disputes other than in a court of competent jurisdiction in Tippecanoe County.
- F. Any provision requiring the County to pay any taxes.
- G. Any provision requiring the County to pay penalties, liquidated damages, interest or attorney’s fees.
- H. Any provision modifying the applicable Indiana statute of limitations.
- I. Any provision relating to the time within which a claim must be made.
- J. Any provision requiring payment of consideration in advance unless authorized by IC 36-2-6-4.5 or otherwise.
- K. Any provision limiting disclosure of the contract in violation of the Access to Public Records Act, IC §5-14-3.
- L. Any provision requiring payment in less than 35 days
- M. Any provision providing for automatic renewal.
- N. Any provision purporting to limit liability for the reckless or unlawful actions of Contractor or Contractor’s employees, officers, or agents.
- O. Any provision purporting to limit liability for damage to property or injury to individuals caused by Contractor’s employees, officers, or agents, through acts or omissions which are not within the scope of the Agreement.
- P. Any provision giving the Agreement precedence over this Addendum.

Funding for a Multi-year Agreement - In the event that the County is not able to obtain funding, after affirmatively requesting such funding, for the provision of the goods and or services to be provided in accordance with this Agreement, County may terminate this Agreement on thirty (30) days written notice to Contractor . In such event, County agrees that it shall reimburse Contractor for all expenses incurred under this Agreement before written notice of termination is received. Such charges, however, shall not exceed the total purchase price

under this Agreement. Contractor and County understand that the funding for a multi-year agreement is done on a year-to-year basis, and this provision applies annually.

Insurance - During the term of this Agreement Provider will maintain not less than the following insurance levels:

Workers' Compensation Insurance, with limits for Coverage A Statutory - State of Indiana and Coverage B Employers Liability \$500,000 bodily injury, \$500,000 bodily injury by disease, and \$500,000 by disease policy limit.

Commercial general liability of not less than \$2,000,000 General Aggregate Limit (Other than Products-Completed Operations), \$2,000,000 Products-Completed Operations Aggregate Limit, \$1,000,000 Personal and Advertising Injury Limit, \$1,000,000 Each Occurrence Limit, and \$1,000,000 Fire Damage Limit, and shall not contain an exclusion for contractual liability.

For automobile liability the limits shall not be less than \$1,000,000 each person, \$1,000,000 each occurrence of bodily injury liability, and \$1,000,000 each occurrence of property damage liability, policies with a single combined limit must be not less than \$2,000,000 or \$1,000,000 with an umbrella policy of \$1,000,000 per occurrence.

Professional liability insurance shall not be less than \$1,000,000 per occurrence and shall hold Tippecanoe County, its departments, agents, employees or assigns harmless from any claim, including claims for attorneys' fees or other legal expenses, which may arise as a result of the sole negligence or malpractice of an employee of the Provider in providing services.

Non-Discrimination – Pursuant to IC 22-9-1-10, Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of the covenant may be regarded as a material breach of this Agreement.

Equal Opportunity - Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin.

Default - If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

Indemnification - The County's obligation to indemnify and hold harmless under the

Agreement, if any, shall be limited in substance by state and federal statutes and constitutional provisions designed to protect the exposure and liability of County as a political subdivision of the State of Indiana or otherwise (e.g., actions and conditions as to which County is immunized by the Indiana Tort Claims Act, dollar limits stated in such Act, exemption from punitive damages, the 11th Amendment, and the ability to defeat a claim by reason of contributory negligence of fault of a claimant), so that County's liability and Contractor's liability, if any, resulting from this Agreement, shall not in any case exceed what might have been County's liability to a claimant had County been sued directly by the claimant in Indiana and all appropriate defenses had been raised by County.

Governing Law; Exclusive Jurisdiction; Exclusive Venue - This Agreement is entered into in Indiana and all matters arising under or related to this Agreement shall be governed by and construed in accordance with the substantive law (and not the law of conflicts) of the State of Indiana. Courts of competent authority located in Tippecanoe County, Indiana shall have sole and exclusive jurisdiction of any action arising out of or in connection with the Agreement, and such courts shall be the sole and exclusive venue for any such action.

Severability - Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

Force Majeure - In the event that any party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster, actions or decrees of governmental bodies or communication line failure not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to other parties and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of such notice of the Force Majeure Event, the party whose ability to perform has not been so affected may be given written notice to terminate this Agreement.

E-Verify Employment Eligibility Verification - In accordance with IC 22-5-1.7, if Contractor has any employees or subcontractors, and the E-Verify program as defined in IC 22-5-1.7-3 is in existence, Contractor shall enroll in and verify the work eligibility status for all of Contractor's newly hired employees through the E-Verify program. Contractor shall not knowingly employ or an unauthorized alien, nor shall Contractor retain an employee Contractor subsequently learns is an unauthorized alien. Contractor, by the undersigned, hereby represents that it does not knowingly employ an unauthorized alien at the time of execution of this Agreement.

Contract Reporting Requirements - Contractor understands and acknowledges that the County is a "public agency" within the meaning of Indiana's Access to Public Records Act and, as such, the agreement or other contract between the parties may be subject to disclosure as a public record under IC 5-14-3. Contractor further understands and acknowledges that, under IC 5-14-3.8-3.5, if the amount to be paid during a calendar year by the County under the contract exceeds

fifty-thousand dollars (\$50,000), the County will be required to scan and upload the digital image of the contract to the "Indiana transparency Internet web site."

Anti-Nepotism Requirements - Contractor hereby certifies either: a) Contractor is not a relative of an elected official (as defined by IC 36-1-21) of Tippecanoe County and is not a business that is wholly or partially owned by a relative of an elected official of Tippecanoe County; or b) the requirements set forth in IC 36-1-21-5(b) have been satisfied.

ACCEPTED:

TIPPECANOE COUNTY
20 N. 3rd St.
Lafayette, IN 47901

By: _____

Title: _____

Date: _____

ACCEPTED:

WET Environmental Engineering, LLC
410 East Morsches Road
Columbia City, IN 46275

By: _____

Title: _____

Date: _____